



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Janne Markus MUHONEN

Art Unit: 2617

Application No.: 10/550,074

Examiner: Tangela T. CHAMBERS

Filed: December 5, 2005

Attorney Dkt. No.: 059643.00648

For: METHOD AND SYSTEM FOR ESTABLISHING AN EMERGENCY CALL IN A
COMMUNICATION SYSTEM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

October 22, 2008

Sir:

In accordance with the Pre-Appeal Brief Conference Pilot Program guidelines set forth in the July 12, 2005 Official Gazette Notice, Applicant hereby submits this Pre-Appeal Brief Request for Review of the final rejections of claims 17-22 and 31-35 in the above identified application. Claims 17-22 and 31-35 were finally rejected in the Office Action dated June 23, 2008. Applicant filed a Response to the Final Office Action on September 23, 2008, and the Office issued an Advisory Action dated October 15, 2008 maintaining the final rejections of claims 17-22 and 31-35. Applicant hereby appeals these rejections and submits this Pre-Appeal Brief Request for Review.

Claims 17-19, 21-22, 31-32, and 34-35 were rejected under 35 U.S.C. §102(e) as being anticipated by Rhodes et al. (US 2003/0186709 A1, hereinafter "Rhodes"). However, Rhodes fails to disclose or suggest all the limitations of the rejected claims. Therefore, the Office Action has committed a clear error in rejecting claims 17-19, 21-22, 31-32, and 34-35.

Rhodes discloses a public safety access point selection system directed to E911 wireless callers in a GSM type system. In Rhodes, ESRD or ESRV information for a wireless E911 caller includes requesting accurate location information relating to the caller. The selection of a public safety access point is delayed for a period of time until the requested location information is

received. If the location information is not received, then a location relating to a serving base station is returned as a default condition.

However, Rhodes fails to disclose or suggest, at least, “determining a first estimate of a position of said user’s equipment within said radio coverage area, interrupting a call establishment of the emergency call, using the control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and when at least one answering point has been selected, resuming said call establishment, determining a second, more accurate, position estimate, and sending the second position estimate to the selected answering point,” as recited in claim 17, and as similarly recited in claims 21-22 and 34-35, though each claim has its own scope.

Instead, Rhodes discloses that the selection of a PSAP (Public Safety Access Point) is delayed until the requested accurate location information is received. A location relating to a serving base station is returned as a default condition in place of the requested accurate location information if the accurate location information is not received before expiration of a given amount of time. In other words, the PSAP is determined based on a SubLocRep location estimate, if the SubLocRep location estimate is available within a pre-configured time interval (T1). However, if the SubLocRep location estimate is not available within T1, then the PSAP is determined based on the cell site sector identification.

Conversely, in embodiments of the claimed invention, a distinction is made between a position estimate made for routing purposes (also referred to as an “interim position”) and a subsequently determined and more accurate “initial position.” The interim position is firstly determined at an emergency call setup stage and the SCP determines the routing address of the relevant PSAP based on the interim position. The call is then routed to the PSAP, and only after that, the initial position is determined and sent to the PSAP so that a more accurate location of the caller may be dispatched by the emergency service network. One skilled in the art would appreciate that the interim position is much more accurate than the cell-level positioning method disclosed in Rhodes, but slightly less accurate than the initial position. The benefit achieved by using a slightly less accurate positioning method in estimating the interim position is that the relevant PSAP can be selected more quickly, which optimizes the system as a whole, particularly when there is more than one PSAP covering a cell.

Accordingly, in Rhodes, the accurate location information is used for selection of a PSAP if that information is obtained within a given amount of time, and a less accurate location information is used if the accurate information has not been obtained in a pre-selected period of time. However, in embodiments of the claimed invention, a less accurate location information is used for routing the call, and the more accurate location information is determined and sent to the PSAP after routing the call. Thus, in Rhodes, one or the other location information is used for selecting the PSAP while in the present invention both location estimates are determined and used, one for routing and the other for providing emergency services with a more accurate location of the caller.

On page 6, the Office Action alleges that Rhodes teaches the claimed determining of a first estimate of a position of a user's equipment within a radio coverage area by disclosing a method to route an emergency call to the appropriate PSAP based on the identity of the cell site sector serving the user's equipment. That is, according to the Office Action, the first position estimate is the identity of the cell site sector. Conversely, on page 7, the Office Action alleges that the claimed using of the control point to select, based on said first position estimate, which one of the at least two answering points the call is to be established with, is disclosed by Rhodes in paragraphs [0049]-[0053], which allegedly discloses the claimed "first position estimate" as latitude/longitude location information. For example, paragraph [0050] of Rhodes discloses that, "In sub-step B, the MPC/GMLC associates incoming latitude/longitude location or presence information for the caller's mobile station to the correct emergency services zone and PSAP as provisioned in the CRDB." Accordingly, the Office Action contradicts itself with respect to the "first position estimate" when attempting to provide disclosure for the claimed "determining" and "using." Additionally, the cell site sector cannot be used in choosing the PSAP according to the claimed invention because there might be two PSAPs within the cell coverage area. Thus, the cell site sector information cannot correspond to "the first position estimate based on which the answering point is selected," as recited in claim 1. Further, the cell site is often known when a call is received (this information is carried within the call) and thus it does not involve any positioning activity.

If the cell site sector corresponds to "the first position estimate," then Rhodes at least fails to teach using the control point to select, based on said first position estimate, which one of said

at least two answering points the call is to be established with. However, if latitude/longitude location corresponds to “the first position estimate,” then Rhodes at least fails to teach determining a second, more accurate, position estimate, and sending the second position estimate to the selected answering point (SubLocRep message includes latitude/longitude location). Consequently, Rhodes fails to disclose or suggest, the claimed “determining,” “using,” and “the first position estimate” as recited by the pending claims.

To facilitate demonstration that the pending rejection is in clear error, Applicant respectfully points out the strict standard for rejecting claims under §102(e). MPEP § 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.’ *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)” (emphasis added). “‘The identical invention must be shown in **as complete detail** as is contained in the ... claim.’ *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)” (emphasis added). Moreover, “[e]very element of the claimed invention must be literally present, **arranged as in the claim.**” *Id.* (emphasis added).

In violation of these requirements, the Office Action is inconsistent in choosing the feature in Rhodes (US2003/0186709) that could correspond to “*a first position estimate*” in the present claims. In Rhodes, there is only one positioning estimate and that is the latitude/longitude location reported using a SubLockRep message. Consequently, if this is considered to correspond to the “first position estimate” of the present claims, then Rhodes fails to teach “determining a second, more accurate, position estimate, and sending the second position estimate to the selected answering point.” On the other hand, if the “*cell site sector*” is considered to correspond to the “first position estimate,” then Rhodes fails to teach “using the control point to select, based on said first position estimate, which one of said at least two answering points for callers to be established with.” If the SubLockRep information is not available, then only the cell site sector information is used.

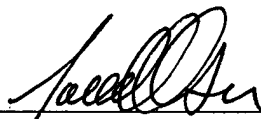
Accordingly, Rhodes fails to disclose or suggest “each and every element” in “as complete detail” and as “arranged as in the claim.” In other words, Rhodes fails to disclose or suggest all the limitations of claims 17, 21-22 and 34-35. Therefore, the Office Action

committed a clear error in rejecting claims 17-19, 21-22, 31-32, and 34-35 under 35 U.S.C. §102(e) in view of Rhodes.

Claim 20 was rejected under 35 U.S.C. §103(a) as being unpatentable over Rhodes, in view of Maanoja et al. (US 2004/0259566). As set forth above, Rhodes fails to disclose or suggest all the limitations of claim 17, from which claim 20 depends. Similarly, Maanoja fails to remedy the deficiencies of Rhodes. Accordingly, a combination of Maanoja and Rhodes fails to disclose or suggest all the limitations of claim 17. Therefore, the rejection of claim 20 was made in clear error.

Reconsideration and withdrawal of the rejections, in view of the clear errors in the Office Action, is respectfully requested. In the event this paper is not being timely filed, the applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

059643.00648

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Signature _____

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Name _____

Application Number:

10/550,074

Filed: December 5, 2005

First Named Inventor:

Janne Markus MUHONEN

Art Unit: 2617

Examiner: Tangela T. CHAMBERS

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ Applicant/Inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under
37 CFR 3.73(b) is enclosed (Form PTO/SB/96)

☒ Attorney or agent of record.
Registration No. 61,058

☐ Attorney or agent acting under 37 CFR 1.34.
Registration Number if acting under 37 CFR 1.34 _____


Signature

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October 22, 2008
Date

NOTE: Signatures of all of the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 form is submitted.

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